MULTIMEDIA UNIVERSITY

STUDENT IDENTIFICATION NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2018/2019

UNL1622 – CONTRACT LAW II

(All Sections/Groups)

01 MARCH 2019
Reading Time: 3.00 p.m. – 3.15 p.m.
(15 Minutes)

Answering Time: 3.15 p.m. – 6.15 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENTS

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes. ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the question.

2. This Question paper consists of 4 Pages and 5 Questions only.

3. This Question paper consists of 2 sections. Attempt **ONE** question only in **Section A** and all **THREE** questions in **Section B**. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are allowed to bring into the examination hall CLEAN and ORIGINAL copy of:
   i. **Contracts Act 1950 (Act 136)**
   ii. **Specific Relief Act 1950 (Act 137)**

   "Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

SECTION A

QUESTION 1

(a) In *Tate v Williamson*, Lord J stated:

"Wherever two persons stand in such a relation that while it continues, confidence is necessarily reposed by one, and the influence which necessarily grows out of that confidence is possessed by the other, and this confidence is abused, or the influence is exerted to obtain an advantage at the expense of the confiding party, the person so availing himself of his position will not be permitted to retain the advantage, although the transaction could not have been impeached if no such confidential relation had existed."

Explain the legal principle of undue influence under the English common law and its position under Malaysian legal framework. Support your answer with decided cases.

(15 marks)

(b) Julia, a successful businesswoman of 29 years agreed to buy from Gopal certain land for her agricultural business in Sabah for the price of RM500,000.00. Gopal estimated the land would suffice to park more than ten farming trucks as requested by Julia when she negotiated to buy the land from Gopal. Since Gopal is Julia's late father's good friend, she relied on his statement without any doubt.

Unfortunately, only five farming trucks can be parked on the land and another five farming trucks have to be parked at the other station. Julia was frustrated and is now seeking legal advice on her rights.

Advise Julia.

(10 marks)

(Total: 25 marks)

OR

QUESTION 2

(a) Nelly, a second wife to Tan Sri Rahmat suffers from mental depression after she lost her baby in an accident at Melaka Raya. She was under the treatment of Dr Ong from Melaka Specialist Mental Hospital. Dr Ong advised Nelly to adopt a baby since she will not be able to be pregnant again due to the injuries that she suffered from the accident. Meanwhile, Nelly's maid called Bibik Anita is five months pregnant. As her family's doctor, Dr Ong suggested to Nelly to adopt Bibik Anita's baby as her child after she delivered the baby. Nelly agreed with the suggestion and made a promise to Bibik Anita to adopt her baby as her child.

Continued...

Four months later, after the delivery of the baby, Bibik Anita asked Nelly to pay RM 100,00.00 before she can adopt the baby as her child. Nelly felt she had been deceived since there is no promise for her to pay that amount to Bibik Anita. Further, she felt even more surprised when later found out that the baby is Dr Ong's illegitimate child with Bibik Anita.

Advise Nelly on the possible action to be taken against Dr Ong and Bibik Anita.

(15 marks)

(b) In *Explanation* to Section 17 of the Contracts Act 1950:

"Mere silence as to facts likely to affect the willingness of a person to enter into a contract is not fraud, unless the circumstances of the case are such that, regard being had to them, it is the duty of the person keeping silence to speak, or unless his silence is, in itself, equivalent to speech."

Explain the principle of fraud by silence under the Contracts Act 1950. Support your answer with decided cases.

(10 marks)

(Total: 25 Marks)

SECTION B

QUESTION 3

Mona suggested to her husband, Kenny to plan a housewarming celebration for their new house in Kuala Lumpur. Kenny was happy with the suggestion and agreed to invite their friends to the party on 3rd January 2018. Meanwhile, Mona contacted Madam Wong to purchase her order for three boxes of Pavlova for her guest on that day. She also wants to surprise Kenny as Pavlova made by Madam Wong is Kenny's all time favourite. As a loving husband, Kenny also planned to surprise Mona by contacting his good friend, Joey Mendoza, a famous magician to make an appearance and perform at the party, specially for his wife. Kenny agreed to pay RM3,000.00 to Joey Mendoza for his appearance and performance. Joey Mendoza agreed and promised to come at 12:00 pm on that day.

Continued...

On 3rd January 2018 at 10:00 am, Mona received a phone call from Alicia, Madam Wong's daughter informing that her mother was admitted to hospital last night due to heart attack and she apologised on behalf of her mother's failure to provide Pavlova as promised to Mona. Meanwhile, Kenny was still waiting for the special appearance by Joey Mendoza for his wife until the event ended at 3:00 pm. Kenny was so frustrated and tried to contact Joey Mendoza but failed to reach him. He regretted paying Joey Mendoza two days before the event and thought of cancelling his booking to buy a gift for Joey Mendoza as his birthday present even though he had already paid RM200.00 to the seller as deposit. However, the seller refused to refund the deposit of RM200.00 and ignored Kenny.

Advise Kenny and Mona.

(25 marks)

(Total: 25 Marks)

QUESTION 4

Discuss the most appropriate remedies available in the following separate scenarios given. Support your answers with relevant legal authorities.

(a) Laila, a famous underground singer in Bangsar agreed to perform three songs for an event organized by XYZ Channel on 25th December 2018. On the day of the event, she fell sick and suffered sore throat, therefore she cannot sing well for the event. She tried to sing two songs but then she felt very sick and was unable to proceed to sing the another song. The organizer was unhappy with her performance and sued her for breach of contract.

Advise XYZ Channel.

(15 marks)

(b) On 5th February 2018, Ali decided to sell his house to Ah Meng for RM330,000.00. On the next day, Ali met Natasha, his former colleague in previous office who is seeking for a new house after she lost her husband in a car accident last month. Ali felt sympathy then offered Natasha to buy his house which is the same house that he agreed to sell to Ah Meng. Two days later, Natasha paid RM350,000.00 to Ali for the house and Ali accepted the money without any delay. Meanwhile, Ah Meng felt disappointed and seek legal advice for his rights.

Advise Ah Meng.

(10 marks)

(Total: 25 Marks)

Continued...

QUESTION 5

(a) Sathesh, a law lecturer at Monopoly University was an event organizer for his faculty annual dinner. He tried to negotiate with Andalas View Hotel to set up a hall with full decoration for the event. The theme for the event was 'Bollywood Mega Night' and all the lecturers of the faculty were very excited to attend the dinner. When the day come, the hall for the event was not opened and nothing was set up in front of the hall. Sathesh was shocked and suffered a mild panic attack. He found the manager of the hotel and asked for explanation. All the guests were there and ready for the event. The manager came forward and explained that the hotel mistakenly looks at the date and was not aware with the theme requested by the organizer.

Advise Sathesh as to what damages, if any, he might claim from Andalas View Hotel. Support your answer with relevant legal authorities.

(15 marks)

(b) In *Lee Hin v Mohamed bin Abubakar* stated that:

"The quantum or measure of damages that will naturally arise from the defendant's breach is the plaintiff's loss of profits or bargain, which would normally be the difference between the market price and the contract price."

Explain the principle of loss of bargain under the Malaysian legal framework. Support your answer with relevant legal authorities.

(10 marks)

(Total: 25 marks)

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